



**Women, Domestic Violence and the No Recourse to
Public Funds Rule
November 2008**

An Introduction

Since 1976 the Women's Therapy Centre has provided high quality individual and group psychoanalytic psychotherapy for women across London, developing expertise in working with women facing complex issues, including depression, low self-esteem, violence and abuse, eating problems, racism, trauma, exile and loss. The Centre is renowned for providing gender and culturally sensitive psychotherapy for women which recognised the impact of women's external worlds on their internal lives, and was cited as an example of good practice by the Department of Health¹.

As a Centre of excellence in the provision of psychoanalytic psychotherapy by women, for women the Women's Therapy Centre has developed a commitment to ensuring that all women are able to access its services, including those who are usually excluded from psychotherapy because of their limited income, or because they come from communities where talking therapies have traditionally not had a place. This commitment to supporting very wide access to psychotherapy has included the following:

- The provision of mother tongue therapy
- The use of trained and experienced interpreters
- The employment of a Link Worker who supports women who are accessing therapy at the Women's Therapy Centre by assisting them with practical problems and signposting them to other support services in relation to housing, benefits and immigration issues
- The employment of a Community Development Psychotherapist who takes therapy out into the community via information and therapy taster sessions as well as reflective practice sessions for staff working with vulnerable women
- Support with child care and travel costs for refugees and asylum seekers and others with no recourse to public funds.

In the course of its work with women living in exile, the Women's Therapy Centre has identified and wishes to highlight the plight of women who are victims of domestic violence, at the same time as their immigration status includes the requirement that they

¹ Department of Health's 'Women's Mental Health: Into the Mainstream' 2002

do not “seek recourse to public funds”. Such women find it more difficult than most to leave a violent relationship, and their predicament leaves them open to severe physical violence and ongoing mental health problems. At the same time, their ability to access appropriate support and therapeutic services is severely restricted.

What is the No Recourse to Public Funds Rule?

The no recourse to public funds rule applies to people from countries that are not members of the European Economic Area (EEA) who are applying for limited leave to enter or remain in the UK, are currently in the UK with limited leave to enter or remain or are applying for further or indefinite leave to remain in the UK.²

Public funds include a range of income-related benefits³, together with housing and homelessness support⁴. Women affected by the no recourse to public funds rule are primarily, but not exclusively, from the Asian sub-continent.⁵ They include those who entered the UK on valid visas as spouses, students, visitors or workers; women whose visas have expired and who are therefore classified as overstayers, and women who have been trafficked into the UK.⁶ The rule also applies to people from European Union Accession countries, who are restricted in their ability to access public funds if they have been in the country for less than a year or if they are not registered under the worker registration scheme.⁷

X from East Africa. She came to Britain with her French husband. She was separated from her husband following his continued violence. She was referred to the Women’s Therapy Centre by a woman’s refuge following an incident when the police were called.

² Home Office, ‘No Recourse to Public Funds’, Immigration and Nationality Enquiries Bureau, www.ind.homeoffice.gsi.gov.uk

³Including: income-based jobseeker’s allowance, income support, child tax credit, working tax credit, a social fund payment, child benefit, housing benefit, council tax benefit, state pension credit, attendance allowance, severe disablement allowance, carer’s allowance, disability living allowance, an allocation of local authority housing and local authority homelessness assistance

⁴ Home Office, ‘No Recourse to Public Funds’, Immigration and Nationality Enquiries Bureau, www.ind.homeoffice.gsi.gov.uk

⁵ [The Guardian](#), Wednesday January 23 2008

⁶ Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

⁷ Ibid

X felt particularly vulnerable and isolated as her legal status was tied to her husband and was concerned about her financial vulnerability and whether her children could be taken away. The therapy gave her space where she could explore her needs and ways to keep her herself and her children safe.

What are the implications of the no recourse to public funds rule for women who are subjected to domestic violence?

Women who are forbidden to seek recourse to public funds experience difficulty extricating themselves from violent relationships because a significant factor in a decision to leave a violent partner is whether or not a woman – and any children she may have – will be able to survive financially.⁸ If a women, either singly or accompanied by her children, is to successfully make a break from an abuser, she needs immediate access to emergency accommodation, financial support, access to emotional and social support networks and services and physical protection from the abuser.⁹

However, women who wish to flee domestic violence while they are subject to the no recourse to public funds rule are very likely to find themselves faced with destitution because they are prevented from accessing local authority housing and the main welfare benefits, including income support.¹⁰ Moreover, for such women to find a place in a refuge, they need to be able to claim housing benefit to cover the cost of their accommodation. They also need to claim income support in order to purchase food, clothing, toiletries, etc. Some women may have the right to work, such as spouses and domestic workers, but this is may not be immediately possible, due to relocation to escape violence, language difficulties and the effects of the recent trauma of abuse.¹¹

‘We don’t have a shortage of victims of domestic violence. Every week, every week I am faced with them.’

Staff member at a Refugee Organisation, describing the plight of women with no recourse

⁸ Ibid

⁹ Ibid

¹⁰ Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

¹¹ Ibid

Although women's refuges are aware of the situation facing women fleeing domestic violence who have no access to public funds, a severe shortfall in emergency funding for refuges has meant that the majority of women in this situation have had to be turned away. In London, for example, a survey of 11 refuge providers in the period 2006/07 found that 223 women with no recourse to public funds requested refuge space. However, only 19 (8.5 per cent) of these women were accepted for support. Of the 19 women accommodated, 16 had children.¹² Financially motivated explanations were offered for why women who were prevented from accessing public funds were turned away – it cost refuges an average of £4,165 for each of the women who were accepted. While Social Services funded 60 per cent of the women accepted, refuges themselves funded 30 per cent (10 per cent were funded by 'other' sources).¹³ Refuges are not in receipt of ongoing public funds to cover the costs of accommodating women with no recourse to public funds. In most cases the refuge may have wanted to accept a woman but was not able to do so. Refuge workers have noted that this goes against their training and professional guidelines for the treatment of women victims of domestic violence.¹⁴

How many victims of domestic violence are affected by the no recourse to public funds rule?

There has been no comprehensive UK-wide research into the numbers of women fleeing domestic violence who are affected by the no recourse to public funds rule. However, national research carried out by Southall Black Sisters (SBS) estimates that approximately 600 women a year who arrive in the UK as dependants become victims of domestic violence.¹⁵ This may be a significant underestimate, though, as the difficulties women face in reporting perpetrators and in seeking help, mean domestic violence is a significantly unreported crime. While Imkaan, a national charity that specialises in supporting Asian Women's Refuges, has reported that in a two-year period in London,

¹² Fellas, O and Wilkins, H (March 2008) "Victims of Domestic Violence with No Recourse to Public Funds", NRPf Network, Islington Council

¹³ Ibid

¹⁴ NRPf Network, Islington Council (September 2006) *Destitute People From Abroad With No Recourse to Public Funds: A Survey of Local Authorities*

¹⁵ Amnesty International and Southall Black Sisters (March 2008) "No Recourse' No Safety, the Government's failure to protect women from violence"

537 applications from women – 47 of whom had children – for access to emergency housing and support were refused.¹⁶

The information below is indicative of the number of women affected by domestic violence and the no recourse to public funding rule across the UK:

- In 2007, Scottish Women’s Aid found that, on average, one per cent of enquiries received by their groups concerned women with no recourse to public funding.
- In 2007, Welsh Women’s Aid found that two per cent of all women in their refuges had no recourse to public funds.
- In 2003, the Home Office estimated that 4,000 women in the UK were victims of trafficking for sexual exploitation.
- In 2005/6 Kalayaan, the domestic worker agency, received inquiries from 387 domestic workers suffering abuse from their employers and families.
- Between April 2006 and March 2007, BAWSO in Wales (Black Association of Women Step Out) supported 77 women with no recourse to public funds. Of these 77 women, Bawso could only accommodate 12 in their refuges. The other 65 were offered outreach support across Wales.
- In 2006, Women’s Aid refuges in Northern Ireland provided accommodation to 72 women and 46 children with no recourse to public funds.¹⁷

What are the options for women who are victims of domestic violence at the same time as they are subject to the no recourse to public funds rule?

Women who are victims of domestic violence and who have no recourse to public funds will usually have been granted limited leave to enter the United Kingdom as a spouse or a fiancé of a person present and settled in the UK.¹⁸ One option open to women wishing to regularise their immigration status independently of an abusive spouse is to apply for

¹⁶ Ibid

¹⁷ Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

¹⁸ The Home Office reports that, on average, 1,000 applications are made under the Domestic Violence Rule per annum. Of these, approximately 35 – 50% are successful.

indefinite leave to remain under the Domestic Violence Rule. Under the Rule, people who were admitted to the UK with limited leave to remain as spouses, unmarried partners or civil partners may apply for indefinite leave to remain if they can provide evidence that the relationship broke down permanently before the end of their limited leave as a result of domestic violence.

Research carried out by Southall Black Sisters suggests the Domestic Violence Rule has benefited vulnerable women. However, its effectiveness has been undermined by the no recourse to public funds rule, as it is not possible to access public funds while an application under the Domestic Violence Rule is being considered, until such time as the application is successful.¹⁹ The Home Office has claimed that applications made under the Domestic Violence Rule are processed within 28 days, with the potential to streamline this to 10 days.²⁰ However, evidence from refuges, and anecdotally from local authorities, suggests that applications normally take 7–12 months, and can take up to two years.²¹ Moreover, due to cuts in legal aid, applicants must pay £750 to have their cases considered. Given that many women in this position have no resources to draw on, this sum stands as an important impediment to using the Domestic Violence Rule.²² Finally, much domestic violence is well hidden. As such, the type of evidence needed to prove domestic violence to the satisfaction of the Home Office is not easily available.

In 2003, the Home Office published a consultation paper, ‘Safety and Justice: the Government's Proposals on Domestic Violence’, in which it was recognised that victims of domestic violence who were subject to immigration control faced particular difficulties in seeking help.²³ However, the paper went on to state that: “In order to protect the integrity of the immigration and benefit rules, the Government is not persuaded that victims making applications under the Domestic Violence Rule should have access to

¹⁹ Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

²⁰ Fellas, O and Wilkins, H (March 2008) “Victims of Domestic Violence with No Recourse to Public Funds”, NRP Network, Islington Council

²¹ Ibid

²² [The Guardian](#), Wednesday January 23 2008

²³ Home Office (June 2003) Safety and Justice: the Government's Proposals on Domestic Violence

social security benefits”.²⁴ This intractable position has meant that many women affected by the no recourse to public funds rule have faced retribution and/or destitution in seeking to escape domestic violence. For this reason, the no recourse to public funds rule has acted as a strong disincentive to using the Domestic Violence Rule. This also means that the government, in its treatment of women affected by no recourse to public funds, ignores its own guidance in working with women from the general population affected by Domestic Violence, see below.

It is (therefore) essential that public agencies take every opportunity to identify those who may be subject to such violence, and by offering appropriate practical and emotional support, help prevent the situation deteriorating.

Department of Health Guidance Domestic Violence: A Resource Manual for Health Care Professionals , 2000

The only option for practical and emotional support from the state open to women attempting to escape domestic violence, at the same time as they have no access to public funds, is for Social Services departments to assess their need for care and attention as being above and beyond ‘mere’ destitution. If a clear and assessed need for community care or mental health services can be demonstrated, local authorities have a duty to provide support under the National Assistance Act 1948.²⁵ Moreover, if a woman with no recourse to public funds has children, the Children Act 1989 and the European Convention on Human Rights oblige local authorities to provide support for the children.

In some cases, local authorities have attempted to circumvent their duty to provide support for children facing destitution by offering to pay the fares for women and

²⁴ Ibid

²⁵ With every no recourse to public funds case, local authorities should carry out an eligibility test and an assessment of need for women fleeing domestic violence. local authorities may decide to provide some support if an applicant is considered ‘destitute plus’, that is ‘they have needs over and above mere destitution’. See Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

children to return to their countries of origin.²⁶ However, for many women this is to be avoided at all costs, as returning home divorced, separated, as a single parent or a survivor of trafficking means facing isolation, ostracisation and persecution.²⁷

What are the mental health implications of the no recourse to public funds rule for women who are victims of domestic violence?

Women affected by domestic violence and the no recourse to public funds rule have displayed a range of mental health problems linked to their treatment at the hands of their abusers and at the hands of the UK state. This is the case despite the Domestic Violence Bill being enacted with the apparent intention that it would remove the barriers to escaping violence put in place by the state.

Women who are faced with uncertainty about their immigration status and are contemplating destitution as an alternative to remaining in a violent home have been found to have raised levels of depression, to suffer from chronic anxiety and to have a propensity to self-harm.²⁸ More specifically, a large proportion of women affected by the no recourse to public funds rule are from the Indian sub-continent. Young women from this geographic area have been found to have suicide rates that are twice the national average.²⁹ Analysis of hospital records of South Asian women who have attempted suicide has focused on cultural explanations for attempted suicide, and particularly on a notion of “culture conflict”, where the young woman is apparently in disagreement with her parents’ or husband’s traditional or religious expectations,³⁰ which may include being expected to remain in violent marriages for cultural and religious reasons. The no recourse to public funds rule, by placing material obstacles in the way of women wishing to escape from violent marriages, further contributes to conditions in which young Asian

²⁶ Ibid

²⁷ Ibid

²⁸ NRPF Network, Islington Council (September 2006) *Destitute People From Abroad With No Recourse to Public Funds: A Survey of Local Authorities*

²⁹ Between 1988 to 1992, 1,979 women of all races aged between 15 and 34 took their own lives. Of these, 85 were Asian (4.3 per cent), which was nearly double their proportion of the population. See Mind Fact Sheet, *The Mental Health of The South Asian Community in Britain*, www.mind.org.uk/.

³⁰ Ibid

women engage in self-harm and in suicide attempts.³¹

In addition to the specific cultural and religious pressures impacting on South Asian women subject to the no recourse to public funds rule, women in this situation experience the same mental health problems as victims of domestic violence in the wider community. Thus, women who have experienced domestic violence:

- Are at least three times more likely to experience depression or anxiety disorders than other women.
- Account for a third of female suicide attempts, and half of those by black and ethnic minority women.
- Are more likely to suffer from psychosomatic symptoms, eating problems and sexual dysfunction.³²

Elsa, who is currently in therapy at the Women's Therapy Centre, was one of seven children who had been physically abused from early childhood. She welcomed the prospect of a better life when traffickers offered to take her to Germany. In Germany she was put to work as a prostitute. She was then taken on to the UK, she was assaulted by traffickers and her son conceived as a consequence of rape. She tried to escape but was subjected to death threats, beatings and mock drowning. She was held hostage in a flat until a client helped her to escape. At the time she was pregnant with her son.

Some 70 per cent of women psychiatric in-patients and 80 per cent of those in secure settings have histories of physical or sexual abuse³³. While, some psychologists believe that the diagnosis of post-traumatic stress disorder (PTSD), most often associated with wars or natural disasters, or experiences such as torture or being held hostage, can be applied to survivors of domestic violence. Other professionals argue that anxiety, depression, and even self-harm or suicide attempts may be the normal response to the

³¹ The Health Education Authority's *Mental health promotion and South Asian people factsheet* 1998 stated that there were conflicting values, beliefs and differences in expectations between generations and genders. Conflicting cultural values, traditions and beliefs around divorce, widowhood, marriage outside culture or religion and the preservation of family honour could negatively affect individuals and cause mental health problems.

³² Women's Aid, "The Survivor's Handbook"

³³ Home Affairs Select Committee Inquiry into Domestic Violence, A submission from the Association for Family Therapy and Systemic Practice in the UK (AFT)

experience of long-term abuse.

Moreover, the no recourse to public funds rule contributes to the mental distress of the children of abused women. Amnesty International and Southall Black Sisters have reported that some social service departments threatened to place children of women with no recourse to public funds in care, or return them to their fathers³⁴ while in other cases, representatives of local authorities have offered to pay the fares for women and children to return to their countries of origin, despite being made aware that return could be met with further violence.³⁵

According to follow-up encounters with Social Services, Amnesty and Southall Black Sisters believe that these are threats only.³⁶ However, women who are recent migrants do not know their rights so such threats can act as strong disincentives to escaping domestic violence for women with children. This has meant that children have continued to experience violence themselves or have continued to witness violence against their mother as a result of the no recourse to public funds rule. This early experience of domestic violence has been associated with increased risk of behavioural problems and emotional trauma, and mental health difficulties in adult life.³⁷

Recommendations for action

The UK Government has recognised that women attempting to escape domestic violence should have access to safe accommodation. However, it went on to argue that “In order to protect the integrity of the immigration and benefit rules it is necessary to keep the no recourse to public funds requirement in place”. Yet application of the no recourse to public funds rule appears to use the threat of destitution to force vulnerable women and children to leave the UK.³⁸ The risks for some domestic violence victims with insecure

³⁴ Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

³⁵ Ibid

³⁶ Ibid

³⁷ Women’s Aid, “The Survivor’s Handbook”

³⁸ See Amnesty International and Southall Black Sisters (March 2008) “‘No Recourse’ No Safety, the Government’s failure to protect women from violence”

immigration status are so great that allowing them access to the benefits of secure, safe accommodation and support could make the difference between life and death.³⁹

The Women's Therapy Centre has developed a range of services for women living in exile who would not ordinarily have access to psychoanalytic psychotherapy. By taking therapy out into the community and making links with agencies women already use and trust the Centre has managed to ensure that women coping with the trauma of very complex and fractured life experiences can access high quality talking therapies in their mother tongue or with trained and experienced interpreters. The Centre knows, that having a safe and confidential space to make sense of thoughts, feelings and past traumatic experiences can free women from damaging behaviour patterns and frightening mental health difficulties.

'The Women's Therapy Centre understands how hard it is for us and the difficulties we are facing in our community.'

A Refugee

The Women's Therapy Centre wants to urge that women are not excluded from access to life saving practical and psychological support as a consequence of the no recourse to public funds rule and would urge the Home Office to stand by its commitment 'to bring domestic violence out into the open and address its root causes'⁴⁰.

³⁹ Ibid

⁴⁰ <http://www.homeoffice.gov.uk/crime-victims/reducing-crime/domestic-violence/>

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